

Rye City Planning Commission Minutes

January 13, 2004

PRESENT:

Barbara Cummings, Chair
Martha Monserrate, Vice-Chair
H. Gerry Seitz
Hugh Greechan
Nick Everett
Peter Larr

ABSENT:

Patrick McGunagle

ALSO PRESENT:

Christian K. Miller, AICP, City Planner
George Mottarella, P.E., City Engineer
Chantal Detlefs, City Naturalist

I. HEARINGS

1. Hunter Residence

Chair Cummings read the public notice and the City Planner confirmed that the applicant had submitted an affidavit indicating compliance with the City's notification requirements.

Armand Di Biase (applicant's architect) noted the property's location on Van Amringe Pond at the end of Brevoort Lane and Shore Road. Mr. Di Biase cited the location of the 100-foot setback on the property from both Van Amringe Pond and Long Island Sound. Mr. Di Biase stated that nearly the entire property is located within a regulated area.

Mr. Di Biase discussed the proposed plan noting that it involved the construction of a 1-story addition and alteration to the kitchen. There would also be a new terrace that would be constructed which would have a total area of 450 square feet. The application also proposes to relocate existing walkways on the property and to add a driveway pull-off of approximately 150 square feet. Mr. Di Biase stated that there would be an approximately 850 square foot increase in impervious area on the property. He stated that there is currently 8,000 square feet of impervious area on the site.

Mr. Di Biase discussed the Planning Commission's request to extend a private sewer line to the property. He stated that based on discussions with contractors that there are possibly three private sewer lines within the bed of Brevoort Lane extending from properties located opposite the applicant's site. These three lines serve an existing residence, guesthouse and a future pool house on those properties. Mr. Di Biase stated that the cost of extending the sewer line approximately 500 feet to the nearest connection at the intersection of Lake Road and Brevoort Lane would be between

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1 \$40,000 and \$50,000. Mr. Di Biase stated that the applicants are not prepared to spend
2 that amount of money given the relatively modest nature of the proposed improvement.

3
4 Mr. Di Biase stated that the project would include two phases with the first phase
5 relating to the addition in kitchen modification and that the remaining work would be in a
6 second phase. Given the anticipated length of the project Mr. Di Biase requested that
7 the wetland permit expire after two years rather than one year, which is customary for
8 wetland permit applications.

9
10 Zachary Comstock (applicant's landscape architect) provided an overview of the
11 approximately 1,700 square feet of wetland mitigation plantings. Mr. Comstock stated
12 that these plantings would be two square feet for every one square foot of increase in
13 impervious area. Mr. Comstock stated that the first phase of mitigation plantings would
14 be approximately 800 square feet and the second phase of wetland plantings would be
15 approximately 900 square feet. Each phase would correspond to the phase of the
16 construction that is proposed by the applicant.

17
18 Mr. Comstock stated that the proposed mitigation plan would reduce the amount of
19 existing lawn/turf area on the property, provide an improved buffer adjacent to Van
20 Amringe Pond and the improve infiltration of storm water within the wetland buffer. Mr.
21 Comstock provided an overview of the proposed plant material noting that it was native
22 material that is well suited for coastal areas.

23
24 The Planning Commission questioned the location of the septic drainage field and
25 whether there would need to be improvements to this existing system to comply with
26 Westchester County Health Department requirements. Mr. Di Biase responded that the
27 existing septic system appears to be in proper working condition and that the extent of
28 proposed improvements would not require upgrades to the existing septic system
29 pursuant to Westchester County requirements.

30
31 The City Planner questioned why all the mitigation was not proposed at one time. Mr. Di
32 Biase responded that the applicants wanted to minimize the expense of taking on
33 mitigation all at once. The Commission questioned the amount of mitigation per phase
34 and whether it corresponded to the increase in impervious area for each phase.

35
36 Jay Gottlieb (10 Shore Road resident) questioned why plantings were necessary along
37 the western property line adjacent to his property. He noted that such proposed
38 plantings may block his view of the sunrise. The Commission explained that the City's
39 mitigation requirements require that wetland plantings be provided for increases in
40 impervious areas. Zachary Comstock added that the proposed plant material would be
41 relatively low lying and that its mature height would not exceed the height of the existing
42 fence along the property line. Mr. Gottlieb requested that the height of the plant material
43 be considered and that it be restricted by the Planning Commission.

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1 Mr. Gottlieb questioned the height of the proposed terrace. Mr. Di Biase responded that
2 the proposed height would be between 1 and 2 feet above existing grade.

3
4 Mr. Gottlieb questioned the accuracy of the survey and noted that there is an existing
5 encroachment onto his property. He stated that the property line dimensions should be
6 from actual property locations rather than from the existing fence and shrub line that
7 encroaches onto his property.

8
9 Mr. Gottlieb questioned the location of the existing septic field and stated that given its
10 proximity to an adjacent water body that the compliance of this system with Westchester
11 County Health Department requirements be confirmed.

12
13 On a motion made by Peter Larr, seconded by Martha Monserrate and carried by the
14 following vote:

15
16 AYES: Barbara Cummings, Hugh Greechan, H. Gerry Seitz, Nick Everett, Peter
17 Larr, Martha Monserrate

18 NAYS: None

19 RECUSED: None

20 ABSENT: Patrick McGunagle

21
22 the Planning Commission took the following action:

23
24 **ACTION:** The Planning Commission closed the public hearing on wetland permit
25 application number WP145.

26 27 28 **2. Fuller Residence**

29
30 Chair Cummings read the public notice and the City Planner confirmed that the
31 applicant submitted an affidavit confirming compliance with the City's notification
32 requirements.

33
34 Rex Gedney (applicant's architect) began his presentation by noting that the notice
35 appeared to be in error when it stated that a new detached garage was proposed. Mr.
36 Gedney confirmed that no detached garage was proposed as part of the application.
37 The Commission acknowledged the error but did not feel there was a noticed deficiency
38 since the extent of improvement that was noticed was greater than that which was
39 actually proposed.

40
41 Mr. Gedney provided an overview of the project noting that it involves the renovation
42 and expansion of an existing residence located at 6 Island Drive. Mr. Gedney stated
43 that the application also involves the construction of a new swimming pool with
44 associated blue stone terraces around the pool and in the rear of the existing residence.
45 The existing driveway would be modified to provide for safer access to the property. The

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1 paving material for the driveway would consist of gravel rather than the previously
2 proposed pavers. Mr. Gedney concluded his remarks by stating that the plans had been
3 revised per the Planning Commission's request to provide a clearer breakdown of
4 existing and proposed impervious areas.

5
6 There was no public comment.

7
8 On a motion made by Barbara Cummings, seconded by Hugh Greechan and carried by
9 the following vote:

10
11 AYES: Martha Monserrate, Peter Larr, H. Gerry Seitz, Nick Everett, Barbara
12 Cummings, Hugh Greechan

13 NAYS: None

14 RECUSED: None

15 ABSENT: Patrick McGunagle

16
17 the Planning Commission took the following action:

18
19 **ACTION:** The Planning Commission closed the public hearing on wetland permit
20 application number WP146.

II. ITEMS PENDING ACTION

1. Discussion of 2004 Commission Planning Program

24
25
26 Planning Commission member Peter Larr discussed the status of his informal
27 discussions with City Council members and Kathleen Walsh (former City Council and
28 Planning Commission member) regarding the desire to undertake proactive planning
29 efforts for the upcoming year. Mr. Larr noted that based on his discussions with Ms.
30 Walsh and the City Planner that a strategic planning process would be the most
31 appropriate course of action. Strategic planning generally has a more narrow focus than
32 larger comprehensive planning efforts and a shorter time frame to both complete the
33 studies and implement the plan recommendations. Mr. Larr noted that there are no
34 specifics at this time in terms of what planning priorities should be reviewed but that he
35 was discussing completing such studies possibly by the end of the year.

36
37 The Commission discussed the possibility of establishing a planning committee to be
38 responsible for the completion of the planning study and that such committee would be
39 appointed by the City Council but accountable to the Planning Commission. The
40 Commission agreed that it would discuss this matter again at its next meeting.

2. Discussion of 2004 Meeting Schedule

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1 The Planning Commission agreed that there was no need to conduct two meetings in
2 the month of January. The Planning Commission adopted the 2004 meeting schedule
3 excluding a meeting on January 27, 2004.
4

3. Hunter Residence

5
6

7 The Commission discussed the applicant's request to have the wetland permit extend
8 for a two-year, rather than a one-year. The City Planner noted no objection to such
9 extension. The City Planner added that he encouraged the applicant to include all
10 phases as part of one wetland permit so that the Planning Commission would have the
11 benefit of a full and comprehensive program for the property even though
12 implementation could take a couple of years. The Commission agreed to have a two-
13 year permit but stated that it desired all mitigation planting to be done as part of the first
14 phase of the project.
15

16 The Planning Commission discussed its requirements for wetland plantings, noting that
17 it typically requires two square feet of wetland plantings for every one square foot of
18 increased impervious area. The Commission questioned the height of the proposed
19 plant material and its location. The Commission agreed that the mitigation plan should
20 be revised to reconfigure the location of the mitigation plantings away from the western
21 property line closer toward the adjacent wetland or along the edge of Shore Road. The
22 Commission noted that this would enhance the benefits of the plantings for the adjacent
23 wetland and address neighbor concerns regarding the potential for wetland plantings
24 blocking views.
25

26 The Planning Commission discussed the proposed modifications and whether such
27 improvements would trigger changes in the existing septic system to comply with
28 Westchester County Health Department regulations. Armand Di Biase and the
29 Commission noted that there would be no increase in bedrooms, which typically is the
30 standard requiring upgrades in septic systems.
31

32 The Commission discussed the proposed driveway modifications to provide for a pull-
33 off. Mr. Di Biase agreed that the pull-off would not be necessary and that the applicant
34 would remove that improvement from its plans.
35

36 The Planning Commission discussed the neighbors' concerns regarding the location of
37 the property line. The City Planner noted that all property dimensions were from the
38 actual rather than perceived property lines. The encroachments onto adjacent lands
39 were not used as the basis for any zoning setback requirements.
40

41 The Planning Commission discussed the comments of the CC/AC regarding the
42 prohibition against the use of fertilizers and pesticides. The Commission agreed that
43 such activities are already regulated by the City's wetlands law and that additional
44 provisions in the wetland permit were not necessary.
45

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On a motion made by Peter Larr, seconded by Martha Monserrate and carried by the following vote:

AYES: H. Gerry Seitz, Nick Everett, Barbara Cummings, Hugh Greechan, Martha Monserrate, Peter Larr

NAYS: None

RECUSED: None

ABSENT: Patrick McGunagle

the Planning Commission took the following action:

ACTION: The Planning Commission adopted a resolution conditionally approving wetland permit application number WP145.

4. Fuller Residence

The Planning Commission discussed whether the proposed improvements would be too excessive given the size of the property and its proximity to off-site wetland areas. The Commission recognized, however that the proposed improvements appear to have no adverse impact on adjacent neighbors. The Commission questioned how the proposed application compared to its recent approval at a property located at 12 Island Drive. The City Planner noted that the 12 Island Drive application involved the complete removal and reconstruction of a new residence on a 52,000-square-foot property. The net increase in impervious surface on that property was approximately 1,550 square feet. The City Planner added that the applicant's proposal would provide more than 1,800 square feet of increased impervious area on a property that is approximately 37,000 square feet. The Commission noted that there was a non-functioning buffer on the project site and that the application had no impact on neighbors.

The Planning Commission discussed the compliance of the proposed addition with the floodplain management laws of the City. The Commission noted its preference to have the proposed addition elevated above the 100-year flood stage. Mr. Gedney responded that the proposed addition is matching the first floor elevation of the existing residence, which is approximately 12.5 feet above sea level. Mr. Gedney added that the bedroom addition is intended to be handicap accessible. Mr. Gedney also noted that he met with the Rye City Building Inspector to confirm the compliance of the proposed addition with the City's floodplain management laws.

The Planning Commission discussed the proposed drywells and whether additional information was necessary to determine that the proposed drywells would function properly given soil conditions. The Commission noted considerable extent of rock in the area and a high groundwater table. Beth Evans (applicant's environmental consultant) stated that there may be some modifications in the system based on field conditions during construction however Ms. Evans noted that initial surface investigations suggest that the proposed system will function properly. Mr. Fuller (property owner) stated that no rock was encountered in the recent sewer extension from the residence to the new

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1 sewer line in Island Drive. The Commission discussed whether drainage calculations
2 would be necessary. The Commission agreed that the City Engineering Department
3 should review the proposed drainage system and drainage calculations prior to the
4 issuance of a building permit.

5
6 The Planning Commission reviewed the comments of the CC/AC. The CC/AC noted
7 that additional information regarding the proposed porous pavers system. The
8 Commission noted that the pavers were no longer proposed and therefore the comment
9 no longer relevant.

10
11 On a motion made by H. Gerry Seitz, seconded by Barbara Cummings and carried by
12 the following vote:

13
14 AYES: Nick Everett, Hugh Greechan, Martha Monserrate, Peter Larr, H. Gerry
15 Seitz, Barbara Cummings

16 NAYS: None

17 RECUSED: None

18 ABSENT: Patrick McGunagle

19
20 the Planning Commission took the following action:

21
22 **ACTION:** The Planning Commission adopted a resolution conditionally approving
23 wetland permit application number WP146.

24 25 5. Rye Subaru

26
27 Rex Gedney (applicant's architect) noted that the lighting plan had been revised to
28 include poles that were 21 feet in height and would include a single fixture. By
29 comparison, Mr. Gedney noted that the existing lighting on the property is approximately
30 23 feet in height with three heads. Mr. Gedney noted that an average foot-candle of 5.0
31 would be provided and that it would provide uniform lighting across the property and
32 less directional lighting as is currently on the site. Mr. Gedney noted that the lighting
33 was necessary, in part, to address the presence of homeless on the property.

34
35 The Planning Commission recommended that the pole height and lighting intensity
36 levels be reduced. The Commission suggested that a foot-candle closer to 3.0 and a
37 fixture height of 15 feet would be more appropriate. Mr. Gedney responded that he
38 could achieve the Commission's desired intensity level by replacing the proposed 750-
39 watt bulbs with 400-watt bulbs. Regarding fixture height, Mr. Gedney noted that other
40 properties in the city have mounted heights higher than 15 feet including the credit
41 union property located at the intersection of Midland and Peck Avenues. Mr. Gedney
42 noted that he would review the Commission's concerns and develop an alternative site
43 lighting plan.

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1 The Planning Commission discussed the proposed drainage system. The City Engineer
2 noted that he reviewed the plan and found it acceptable. He noted that the applicant
3 appears to have a right to continue to convey storm water drainage to the Metro-North
4 property pursuant to a previous site plan approval for the property.

5
6 The Planning Commission discussed conditions that would be appropriate to restrict the
7 loading and unloading of multi-carrier vehicles. The Commission agreed that the City
8 Planner should develop appropriate language that would provide the opportunity for the
9 applicant to address concerns in the event that there is persistent and regular
10 inconvenience associated with the loading and unloading of vehicles in the adjacent
11 Metro-North parking lot. The Planning Commission noted that it did not want to preclude
12 the applicant the opportunity to load and unload vehicles on it property, however, if it
13 does the applicant must do so in a safe fashion that does not interfere with traffic flow
14 on Boston Post Road and does not result in vehicle loading or unloading on Boston Post
15 Road.

16
17 The Commission agreed that it would consider a resolution of approval for its next
18 meeting provided that the applicant prepared a revised site lighting plan addressing its
19 concerns.

20 21 **6. Rose Residence**

22
23 The Planning Commission reviewed the applicant's proposed remediation plan. The City
24 Planner noted that the plan had been revised to correct the approximate location of the
25 existing on-site wetland. The City Planner noted that the wetland appears to extend
26 roughly up to the back edge of the existing shed on the rear of the property.

27
28 The Commission noted an apparent discrepancy between the applicants' plan and the
29 quantity of removal indicated in its report. The Commission noted that the extent of
30 removal based on the information provided on the plan appeared to exceed the 25 to 30
31 cubic yards of material stated in the report. The applicant responded that he will review
32 the plan to clarify and correct any discrepancies.

33
34 On a motion made by H. Gerry Seitz, seconded by Martha Monserrate and carried by
35 the following vote:

36
37 AYES: Nick Everett, Hugh Greechan, Peter Larr, Barbara Cummings, H. Gerry
38 Seitz, Martha Monserrate,

39 NAYS: None

40 RECUSED: None

41 ABSENT: Patrick McGunagle

42
43 the Planning Commission took the following action:

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1 **ACTION:** The Planning Commission set a public hearing on wetland permit
2 application number WP138 for its next meeting on February 10, 2004.
3

7. Rye Nature Center

4
5
6 The Planning Commission reviewed the revised mitigation plan in connection with the
7 application. The Commission found the plan acceptable and agreed to set a public
8 hearing.
9

10 On a motion made by Barbara Cummings, seconded by Peter Larr and carried by the
11 following vote:
12

13 **AYES:** Nick Everett, Hugh Greechan, H. Gerry Seitz, Martha Monserrate, Barbara
14 Cummings, Peter Larr

15 **NAYS:** None

16 **RECUSED:** None

17 **ABSENT:** Patrick McGunagle
18

19 the Planning Commission took the following action:
20

21 **ACTION:** The Planning Commission set a public hearing on wetland permit
22 application number WP147 for its next meeting on February 10, 2004.
23

8. Tomczyk Residence

24
25
26 The Planning Commission reviewed the revised site plan noting that it relocated the
27 residence outside of the 100-foot wetland buffer. The plan proposes to maintain the
28 previously proposed mitigation plantings to offset the disturbance associated with the
29 removal of the existing residence, which is located within the wetland buffer. Paul
30 Jaehnig (applicant's landscape architect) added that the applicant is meeting with the
31 City Engineering Department to develop appropriate drainage measures to address an
32 existing drainage condition along the site frontage with Forest Avenue. The City Planner
33 noted that plans showing these revisions need to be submitted to the Planning
34 Department prior to the public hearing.
35

36 The Planning Commission noted the encroachment of an existing driveway on the
37 applicant's property. This driveway serves as access to an existing residence located
38 immediately behind the applicant's property. The Planning Commission strongly
39 encouraged the applicant to resolve this encroachment by encumbering his property
40 with an access easement. The Commission noted that this will provide the neighbor to
41 the rear the explicit right of access across the applicant's property. The Commission
42 noted that this access condition has existed for many years but should be formalized by
43 the applicant. Mr. Tomczyk responded that he will meet with the neighbors and consider
44 the Planning Commission's request.
45

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On a motion made by Peter Larr, seconded by Nick Everett and carried by the following vote:

AYES: Hugh Greechan, H. Gerry Seitz, Martha Monserrate, Barbara Cummings, Peter Larr, Nick Everett

NAYS: None

RECUSED: None

ABSENT: Patrick McGunagle

the Planning Commission took the following action:

ACTION: The Planning Commission set a public hearing on wetland permit application number WP142 for its next meeting on February 10, 2004.

9. United Towing and Recovery, Inc.

The Planning Commission noted that it had received a confidential memorandum from Corporation Counsel regarding the legal issues associated with the existing right-of-way that encroaches on the applicant's property. The Planning Commission noted that it had not had enough time to review Corporation Counsel's comments and that it was seeking to have a meeting with him to discuss his legal opinion in more detail. The Planning Commission noted that it was reluctant to set a public hearing until it better understood the legal issues surrounding this right-of-way.

The City Planner questioned the applicant as to the extent of encroachment into the Nursery Lane right-of-way. Victor Carosi (applicant's engineer) noted that the proposed site plan has no structures that encroach further into the existing Nursery Lane right-of-way than in the current condition. Mr. Carosi stated that there would be no encroachment beyond the existing fence line on the property.

The Planning Commission noted the standards and criteria that the Commission must consider prior to granting the applicant's application. The Planning Commission reviewed the criteria and asked the City Planner to provide additional copies of the criteria to members of the Commission.

Frank Allegretti (applicant's attorney) requested that the Planning Commission set a public hearing for its next meeting. He noted that he has provided Corporation Counsel with his legal opinion and provided information to the Planning Commission for its review. Mr. Allegretti indicated that the right-of-way should not exist since it was established in the late 50's and not acquired by the City. Mr. Allegretti noted that neither his client nor any property owner along Nursery Lane has been compensated for the designation of their property as road right-of-way. Mr. Allegretti suggested that this right-of-way has never been enforced and is likely abandoned under New York State Law. Mr. Carosi added that there would be no permanent structure within the designated right-of-way. Mr. Allegretti stated that there has been previous permits associated with

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1 the property that were issued by the City including a 1991 Planning Commission
2 approval. He noted that at that time the road right-of-way encroachment was not an
3 issue.

4
5 The Planning Commission did not set a public hearing but agreed that it would meet
6 with Corporation Counsel prior to its next meeting.

7